

### ***Caution: DRAFT FORM***

This is an advance proof copy of an IRS tax form. It is subject to change and OMB approval before it is officially released. You can check the scheduled release date on our web site ([www.irs.ustreas.gov](http://www.irs.ustreas.gov)).

If you have any comments on this draft form, you can submit them to us on our web site. Include the word DRAFT in your response. You may make comments anonymously, or you may include your name and e-mail address or phone number. We will be unable to respond to all comments due to the high volume we receive. However, we will carefully consider each suggestion. So that we can properly consider your comments, please send them to us within 30 days from the date the draft was posted.

|                            |   |                                |
|----------------------------|---|--------------------------------|
| Please<br>Type or<br>Print | Name  | Employer identification number |
|                            | Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address) |                                |
|                            | City or town, state, and ZIP code   |                                |

|   |  |   |  |     |      |
|---|--|---|--|-----|------|
| 1 | Check applicable box to show type of entity:<br><input type="checkbox"/> Partnership<br><input type="checkbox"/> S corporation (or C corporation electing to be an S corporation)<br><input type="checkbox"/> Personal service corporation (PSC)   | 2 | Name and telephone number (including area code) of person who may be called for information: |     |      |
| 3 | Enter ending date of the tax year for the entity's last filed return. A new entity should enter the ending date of the tax year it is adopting.  |   | Month  | Day | Year |
| 4 | Enter ending date of required tax year determined under section 441(i), 706(b), or 1378 . . . . .  |   | Month  | Day |      |
| 5 | Section 444(a) Election.—Check the applicable box and enter the ending date of the first tax year for which the election will be effective that the entity is (see instructions):<br><input type="checkbox"/> Adopting <input type="checkbox"/> Retaining <input type="checkbox"/> Changing to |   | Month  | Day | Year |

Under penalties of perjury, I declare that the entity named above has authorized me to make this election under section 444(a), and that the statements made are, to the best of my knowledge and belief, true, correct, and complete.

|  |      |
|--|------|
| Signature and title (see instructions) | Date |
|--|------|

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

## Purpose of Form

Form 8716 is filed by partnerships, S corporations, and personal service corporations (as defined in section 441(i)(2)) to elect under section 444 to have a tax year other than a required tax year.

Attach a copy of the Form 8716 you file to Form 1065 or a Form 1120 series form (1120, 1120-A, 1120S, etc.), whichever is applicable, for the first tax year for which the election is made.

## When To File

Form 8716 must be filed by the earlier of:

1. The 15th day of the 5th month following the month that includes the 1st day of the tax year the election will be effective, or
2. The due date (not including extensions) of the income tax return for the tax year resulting from the section 444 election.

Items 1 and 2 relate to the tax year, or the return for the tax year, for which the ending date is entered on line 5 above.

Under Regulations section 301.9100-2, the entity is automatically granted a 12-month extension to make an election on Form 8716. To obtain an

extension, type or legibly print "Filed Pursuant To Section 301.9100-2" at the top of a properly prepared Form 8716, and file the form within 12 months of the original due date.

## Where To File

File the election with the Internal Revenue Service Center where the entity will file its return. See the instructions for Form 1065 or a Form 1120 series form for service center addresses. For a foreign entity, file Form 8716 with the Internal Revenue Service Center, Philadelphia, PA 19255.

## Effect of Section 444 Election

**Partnerships and S corporations.**—An electing partnership or S corporation must file **Form 8752**, Required Payment or Refund Under Section 7519, for each year the election is in effect. Form 8752 is used to figure and make the payment required under section 7519 or to obtain a refund of net prior year payments. Form 8752 must be filed by May 15 following the calendar year in which each applicable election year begins.

The section 444 election will end if the partnership or S corporation is penalized for willfully failing to make the required payments.

**Personal service corporations.**—An electing personal service corporation (PSC) should not file Form 8752. Instead, it must comply with the

minimum distribution requirements of section 280H for each year the election is in effect. If the PSC does not meet these requirements, the applicable amounts it may deduct for payments made to its employee-owners may be limited.

Use **Schedule H (Form 1120)**, Section 280H Limitations for a Personal Service Corporation (PSC), to figure the required minimum distribution and the maximum deductible amount. Attach Schedule H to the income tax return of the PSC for each tax year the PSC does not meet the minimum distribution requirements.

The section 444 election will end if the PSC is penalized for willfully failing to comply with the requirements of section 280H.

## Members of Certain Tiered Structures May Not Make Election

No election may be made under section 444(a) by an entity that is part of a tiered structure other than a tiered structure that consists entirely of partnerships and/or S corporations all of which have the same tax year. An election previously made will be terminated if an entity later becomes part of a tiered structure that is not allowed to make the election. See Temporary Regulations section 1.444-2T for other details.